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1 October 2026

The Director
Financial Intelligence Centre

COMMENTS ON THE FIC SECTOR RISK ASSESSMENT – ASSESSMENT OF THE INHERENT MONEY LAUNDERING AND TERRORIST FINANCING RISKS: LEGAL PRACTITIONERS (JULY 2026)

Dear Sir

1. INTRODUCTION

The Legal Practice Council (LPC) has reviewed the Financial Intelligence Centre's (FIC) report titled "Assessment of the Inherent Money Laundering and Terrorist Financing Risks: Legal Practitioners," dated July 2026 ("the Report"). As the statutory body responsible for the regulation of the legal profession in South Africa, LPC has a direct interest in the methodology and conclusions of the report.

We set out below a number of concerns arising from our review, addressing in turn the Report's characterisation of the LPC's role, its framing of ML and TF risk, its methodology and evidentiary basis, and specific factual matters requiring clarification or correction. In doing so we have also considered FATF's Guidance for a Risk – Based Approach for Legal Professionals, adopted in June 2019 ("the FATF Guidance"), which provides the international framework within which the Report's risk assessment falls to be evaluated. We respectfully request that these concerns be addressed before the Report's conclusions are relied upon for the supervisory or policy purposes.

2. THE ROLE OF THE LPC

The introduction to the Report states that it "offers important insights to legal practitioners, the Legal Practice Council (LPC), which is the primary supervisor for legal practitioners and the FIC, which is the anti-money laundering and combating the financing of terrorism (AML and CFT) supervisor for legal practitioners."

This description is inconsistent with the current legislative position. Paragraph 3.1.2 of the Report correctly records that, with effect from 19 December 2022, item 8 of Schedule 2 to the FIC Act, which had listed the Law Societies as the supervisory bodies for legal practitioners, was removed, and that FIC "has assumed the AML and CFT supervisory functions of all designated non-financial businesses and professions (DNFBPs), including legal practitioners." LPC is, accordingly, the regulatory body responsible for the general professional regulation of legal practitioners. It is FIC, and not the LPC, that is the AML/CFT supervisory body for the sector. We request that the

introduction be amended to reflect this distinction accurately and consistently with paragraph 3.1.2, and that the respective roles of the LPC as regulator and the FIC as AML/CFT supervisor be clearly delineated throughout the Report, given that the two functions carry different statutory powers and different accountability.

3. FRAMING OF ML AND TF VULNERABILITY IN THE INTRODUCTION

Paragraph 1 of the Report states that “the legal profession is one of the non-financial sectors identified by the international anti-money laundering community as potentially highly vulnerable for money laundering and terrorist financing (ML and TF).” This framing, introduced at the outset of the Report, is not reconciled with the Report’s own eventual conclusion that the sector’s inherent TF risk is low. We accept that vulnerability and assessed risk are conceptually distinct, and that a sector may be generally vulnerable while presenting a low current TF risk in a specific jurisdiction. The Report, however, does not draw this distinction for the reader, with the result that the framing in paragraph 1 primes an impression of uniformly high ML and TF exposure that is not, in fact, borne out by the Report’s own findings. We request that the introduction be revised to reflect the distinction between inherent sectoral vulnerability and the jurisdiction-specific risk findings that follow.

Paragraph 75 of FATF Guidance states that “The FATF standards do not predetermine any sector as higher risk. The standards identify sectors that may be vulnerable to ML/TF. The overall risk should be determined through an assessment of the sector at a national level.”. By contrast the reports opening paragraphs appears to import the international vulnerability designation as a de facto starting classification, rather than conducting and presenting an independent national level determination as the FATF framework contemplates.

4. SCOPE OF THE SURVEY AND THE DISTINCT RISK PROFILE OF TRUST ACCOUNT ADVOCATES

The introduction records that the risk assessment “included a survey that was sent prior to the amendments of item 1 of Schedule 1 to the FIC Act which took effect on 19 December 2022,” and that the survey was sent only to attorneys, since “when the questionnaire was first sent, only attorneys were accountable institutions.” Advocates with a trust account were only brought within the definition of “legal practitioner” for FIC Act purposes with effect from 19 December 2022, and were accordingly never surveyed.

This is a material limitation. Trust account advocates operate under a materially different practice and risk profile to attorneys in that they are not permitted to perform conveyancing work. We request that the Report clarify how, if at all, the risk profile of trust account advocates was independently assessed, given that the founding survey pre-dates their inclusion as accountable institutions, and that the sector-wide “high” ML risk classification be revisited to reflect this distinction.

5. BASIS OF THE REPORT

The introduction states that the Report “is a further update on the information in the 2024 follow-up report,” and that it is “largely based on open-source information on the inherent national and international ML and TF risks facing legal practitioners.” Two matters arise from this.

First, while the Report incorporates updated statistics (registration numbers as at 22 May 2026, RCR submissions as at 31 March 2026, and reporting data through the 2025/26 financial year) and new case studies, it does not identify what has substantively changed since the March 2024 report, nor does it indicate whether, or in which direction, the sector's risk profile has moved.

Second, the Report does not identify the specific open-source materials relied upon, nor does it indicate what standard of verification or credibility assessment was applied to that information before it was used to inform the sector's risk classification. Given that this classification carries direct compliance consequences for the entire regulated population, we request that the FIC identify the open-source materials relied upon and confirm the process by which their reliability was assessed.

6. INCONSISTENCY BETWEEN THE INTERNATIONAL/NATIONAL RISK BASIS AND FIC'S OWN SELF ASSESSMENT DATA

The Report's conclusion states that the sector's inherent ML risk, "based on national and international experience," is classified as high. We respectfully question the national component of this stated basis.

Paragraph 3.1.4 records that of the 12 482 legal practitioners who had submitted Risk and Compliance Returns (RCRs) by 31 March 2026 and that only 733 institutions (approximately 6.2%) had self-assessed into the medium, medium-high or high-risk categories combined. On the FIC's own evaluation instrument, therefore, roughly 94% of respondents fall within the low-risk category. This is, on its face, difficult to reconcile with a sector-wide "high" classification that is said to be informed by national experience, where the RCR is the principal national data source referenced in the Report.

Paragraph 8.3 acknowledges this tension but resolves it by attributing the gap to practitioners "not being familiar with the potential high ML and TF risk of all their activities." We respectfully submit that this explanation does not adequately engage with two alternative possibilities that warrant equal consideration: first, whether the RCR, as a self-administered questionnaire, is an appropriately calibrated and independently validated instrument for measuring inherent risk; and second, whether the sector-wide "high" classification is substantively derived from South African data and the FIC's own regulatory experience, or is it materially inherited from the international position referred to in paragraph 1 and applied to the local market without independent local verification. We request that the FIC clarify the analytical basis on which the "high" classification is reconciled with its own RCR findings and confirm whether any independent validation of the RCR instrument itself has been undertaken.

7. THE BLANKET SECTOR-WIDE CLASSIFICATION

Paragraph 2 of the Report correctly records that legal practices differ according to the products, services, clients, transactions, delivery channels and geographical areas involved, and paragraph 7.1.3 expressly acknowledges that "other forms of legal advice and services such as divorce law, family law or road accident claims may be regarded as lower risk." Notwithstanding this, the Report classifies the sector as a whole as high inherent ML risk

without giving proper consideration to these products, services, clients, transactions, delivery channels and geographical areas.

In this regard, we have noted a fundamental distinction recognised by the FATF framework. FATF recommendation 22 provides that: “customer due diligence and record keeping requirements of the Recommendation apply to legal professionals when they prepare for and carry out certain specified activities for their clients, namely:

- a. Buying and selling of real estate;
- b. Managing of client money, securities or other assets;
- c. Organisation of contributions for the creation, operation or management of companies; and
- d. Creation, operation or management of legal persons or arrangements, and buying and selling of business entities”

Furthermore, paragraph 17 of the FATF Guidance confirms that “litigation is not a specified activity, and a legal professional representing a client in litigation will not be subject to the FATF Recommendations”. Paragraph 40 of the FATF Guidance also goes on to exclude legal work which involves representing a client in litigation, mediation providing advice in relation to divorce or custody proceedings or providing advisory services on regulations. The FATF framework thus draws a clear line between services involving the movement, management or structuring of client funds or assets, and ordinary representational, advisory or rights based legal work. The Report does not reflect this distinction in its sector-wide classification.

In particular, the Report does not weight the higher-risk services it identifies such as conveyancing, trust and company formation, and client account administration by their actual volume or value relative to the sector's total transactional activity, nor does it indicate what proportion of the profession's overall business these higher risk activities represent. A sector-wide classification reached without this weighting does not, in our respectful submission, properly reflect the diversity of practice that the Report itself acknowledges.

We recognise that the LPC does not itself maintain or retain data on the size of the conveyancing market, or on the size of the market relating to the registration of trusts and companies and the planning and designing of such corporate structures by legal practitioners. The absence of retained data on these markets does not, however, mean that their relative scale cannot be estimated. Such an estimate could reasonably be derived from data that is available, for example, deeds registry statistics, Master of the High Court trust registration figures, and company registration data held by the Companies and Intellectual Property Commission. In our respectful submission, this should be considered by the FIC in relation to the total size of the legal industry in arriving at its risk assessment of the legal sector. Without a weighting exercise of this kind, even one grounded in reasoned estimation rather than data the LPC itself holds, the sector-wide “high” classification risks overstating the true proportion of the profession's activity that is exposed to the higher-risk services identified.

It also worth noting that FATF recommendation 1 as revised in February 2025 states that, “where risks are lower, countries should allow and encourage financial institutions and DNFBP's to take simplified measures.” A sector wide classification without recognising the materially lower risk profile of the representational advisory and rights-

based legal work does not in our view, properly implement the risk-based approach that underpins both the FATF framework and the FIC Act.

8. BLANKET CATEGORISATION OF CONVEYANCING AS HIGH RISK (PARAGRAPH 8.3)

We would also draw attention to paragraph 7.5.2 of the Report, which itself demonstrates that conveyancing risk varies materially by geography and transaction value, citing property values in Clifton, Camps Bay and Bantry Bay of between R36 million and R115 million by way of example. A conveyancing practice in, for example, a smaller centre in the North - West or Northern Cape, handling modest value transfers for salaried individual buyers, does not present the same risk profile as the high-value examples cited elsewhere in the Report. Treating conveyancing as a uniformly high-risk activity, without the benefit of this internal geographic, the profile of the purchaser (individual vs juristic entity. simple beneficial ownership structure vs complex UBO structures and/or salaried employee vs self-employed individuals) and value-based nuance, is not consistent with the Report's own analysis in paragraph 7.5 and overstates the basis for questioning the RCR results.

9. CASH TRANSACTION THRESHOLD (SECTION 28) REPORTING - 2024/2025 FINANCIAL YEAR

Paragraph 6.1 records that legal practitioners filed 1 007 section 28 cash threshold reports (CTR's and CTRA's) during the 2024/2025 financial year, with a reported value of R332 930 350. Paragraph 8.4 concludes from the reporting data as a whole that the use of cash "is evident and appears prevalent in the legal practitioner sector," which increases the sector's ML and TF risk profile.

We submit that this conclusion, insofar as it draws on the 2024/2025 figures, is not properly contextualised. The Report separately records that 21 294 legal practitioners were registered with the FIC as at 22 May 2026, and that the South African legal industry generated an estimated R43 billion in private-sector legal services revenue in 2024. Measured against either of these figures, 1 007 reports with a reported value of R332 930 350 represents a very small proportion of the registered population and of the sector's estimated annual revenue. The Report does not indicate how many distinct reporting institutions filed these 1 007 reports, nor what proportion of the 21 294 registered institutions filed no section 28 report at all during the year. Without that information, the characterisation of cash usage as "prevalent" across the sector is not, in our respectful submission, adequately supported by the 2024/2025 data on which it appears to rely. We recommend that the FIC provide a breakdown of the 2024/2025 section 28 reports by number of distinct reporting institutions, to allow a proper assessment of whether cash-related activity is broadly distributed across the profession or concentrated within an identifiable subset of practitioners.

10. BASIS FOR ATTRIBUTING LOW REPORTING VOLUMES TO A LACK OF COMPLIANCE AWARENESS

Paragraph 8.4 states that the number of regulatory reports received from legal practitioners "is very low," and that this "points to a possible lack of compliance awareness among legal practitioner firms and their employees." We respectfully query whether this is an objective finding or a subjective inference. As presently framed, it appears to be an assumption rather than a finding supported by evidence in the Report.

An equally available inference from the same data is that the level of reporting reflects the actual incidence of reportable circumstances encountered by practitioners, rather than under-reporting driven by a lack of awareness. We request that the FIC clarify whether this conclusion is supported by findings from inspections conducted under section 45B of the FIC Act for example, whether such inspections have identified instances of transactions that ought to have been reported under section 28 or section 29 but were not and, if so, that this evidentiary basis be disclosed. If no such inspection findings exist, we submit that the statement should be presented as a hypothesis for further investigation rather than as a conclusion of the Report. Whilst we acknowledge the precise wording of paragraph 8.3 makes it clear that this was not a definitive finding, it would appear that the inference is intended to support the overall classification of the legal sector as high risk without a proper evidentiary basis for doing so.

11. APPLICATION OF DUE DILLIGENCE BY LEGAL PRACTITIONERS ACTING AS TRUSTEES OR DIRECTORS

Paragraph 7.1.5 states that “legal practitioners who perform the role of trustees or directors of companies are also required to obtain the necessary information about the nature of the transactions of trusts or companies, the natural persons or legal persons that are ultimate beneficiaries or parties to such transactions.” We submit that this statement, as framed, does not adequately distinguish between the capacities in which a legal practitioner may hold such an appointment.

Where a legal practitioner is appointed as a trustee or director in a purely private or personal capacity, unconnected to the business of the accountable institution through which they practise, the due diligence obligations imposed on accountable institutions under the FIC Act do not, in our respectful submission, automatically attach to that private appointment. Where, by contrast, the legal practice is appointed as trustee of a trust and the legal practice authorises an individual legal practitioner to represent the legal practice then such an obligation would apply. We request that paragraph 7.1.5 be revised to reflect this distinction, so as to avoid creating the impression of a blanket obligation that is not supported by the provisions of the FIC Act.

12. CONCLUSION

The concerns raised in this letter are methodological and evidentiary in nature, going to the manner in which the Report's conclusions have been reached rather than to the importance of the FIC's underlying mandate. Taken together, they indicate that several of the Report's central findings: the sector-wide “high” inherent risk classification; the characterisation of cash usage as prevalent; and the inference drawn from low reporting volumes are not yet adequately supported by the data and analysis presented, and that the Report's own recognition of the diversity of legal practice in paragraphs 2 and 7.1.3 has not been carried through into its conclusions. The description of the LPC's own role, and the treatment of certain provisions of the FIC Act, also require correction.

We further request that FIC make it expressly clear, either in the report or in accompanying guidance, that a sector-level inherent risk classification of “high” does not mean that every legal practitioner, every legal service or every client relationship is inherently high risk. As the FATF Guidance states in paragraph 76 (d), “even if the services they provide to their clients are considered vulnerable to ML/TF risks based on risk assessment, it does not mean that all legal professionals and all their clients or services pose a higher risk when taking into account the risk mitigating measures that have been put in place.” Unless this distinction is expressly stated, there is a real risk that

the sectoral classification will become a basis for disproportionate and uniform compliance expectations that would undermine the philosophy of a risk-based approach.

LPC is conscious that the results of the report have implications on the compliance frameworks implemented by legal practitioners who are accountable institutions as well as the supervisory activities of FIC. We are of the view that if the risks posed by identifiable segments of the profession is properly understood, it will assist FIC to direct their supervisory activities appropriately.

We are also of the view that the report should be mindful of the profession's constitutional role in facilitating access to justice. Front-loaded compliance requirements may have materially different consequences in matters such as an urgent bail application, a domestic violence matter or a family court matter than in a high value property transaction. We are thus of the view that the Report and any supervisory measures flowing from it should acknowledge and accommodate this distinction. LPC remains committed to supporting the FIC's mandate to combat money laundering and terrorist financing, and raises these points in that constructive spirit, with a view to ensuring that any supervisory or compliance measures arising from the Report are proportionate to the risk actually presented by identifiable segments of the profession. We would welcome the opportunity to engage further with the FIC on the matters raised in this letter, including the correction of the Report where appropriate, before its findings are relied upon for supervisory or policy purposes.

Sincerely,



Mrs Pearl Arnold Mfusi
Acting Executive Officer